Before the
Federal Communications Commission
Washington, DC 20554

In re Application of	)	
	)	
Amendment of Service and Eligibility Rules	)	**MB Docket No. 07-172**
For FM Translator Stations	)	RM-11338
	)	

To: Office of the Secretary

Directed to: The Commission

COMMENTS OF RICHARDSON BROADCASTING CORP.

Richardson Broadcasting Corp., licensee of Station WJLD(AM), Fairfield, Alabama, Facility No. 56299 by its attorney, hereby submits Comments in support of the above-referenced rulemaking proceeding. In support of the *NPRM*, the following is stated:

As the Commission notes in the *NPRM*, For the first fifty years since its debut in the 1920's, AM radio's contribution to daily life in America was unquestioned. As the first national medium of mass communications, at one time AM radio was a unifying force in the nation. During the last twenty years, channel congestion, interference and low fidelity receivers have taken their toll, dulling the competitive edge of this once vital service. Consequently, in the early 1970's, FM radio began its rise to dominance. Not surprisingly, once loyal AM listeners have shifted their allegiance to newer mass media services that offer them higher technical quality. That was the state of affairs when the FCC began its review of the technical assignment criteria for the AM broadcast service in 1990, and remains the case today. *Review of the Technical Assignment Criteria for the AM Broadcast Service*,

5 FCC Rcd 4381 (1990). In the *Assignment Criteria* proceeding, the FCC believed that the once preeminent AM service was now in critical need of attention, and adopted a series of modifications of its rules, designed to "fix" AM radio. Specifically, in 1991, the FCC increased the first and second adjacent channel protection ratios to reduce adjacent channel interference and to promote the development of receivers with higher audio fidelity; refined the methodology of calculating nighttime coverage and interference to more accurately measure interference effects (to improve nighttime reception); and in some cases, required a 10% interference reduction when modifications were made to AM station facilities, in order to gradually reduce the overall presence of interference. *Review of the Technical Criteria for the AM Broadcast Service*, MM Docket No. 87-267, 6 FCC Rcd. 6273 (1991). In initiating that proceeding, the Commission stated:

> For the past several years the Commission has involved itself in an intensive effort to identify the service's most pressing problems and the sources of and solutions to those problems. In September of last year we challenged broadcasters, radio manufacturers and the listening public to tell us how we could revitalize the AM radio service. In an en banc hearing lasting a full day in November they responded to the challenge. **Their response reaffirms our conviction that a concerted effort by this Commission, the broadcasting community and radio manufacturers can rejuvenate the AM radio service.**

Id. at ¶ 2 (emphasis added). Although some degree of improvement no doubt occurred, by no measure did any "rejuvenation" of the AM service ever occur.

As another component of attempting a vast improvement of the AM band, the FCC began implementation of the AM expanded band (1605-1705 kHz). In *Review of the Technical Assignment Criteria for the AM Broadcast Service*, 6 FCC Rcd 6273

(1991), recon. granted in part and denied in part, 8 FCC Rcd 3250 (1993), the Commission adopted measures to improve and revitalize the AM broadcast band, and to establish standards to permit certain AM licensees and permittees to migrate to frequencies between 1605 and 1705 kHz, the "Expanded Band." Toward that end, the FCC began an exhaustive series of proceedings to identify the stations that would allow the greatest degree of improvement to occur on the AM band. On October 14, 1994, the Mass Media Bureau released *Public Notice*, DA 94-1154 which listed the stations eligible to apply for specific Expanded Band assignments. By *Memorandum Opinion and Order*, 10 FCC Rcd 12143 (1995), the Commission partially granted reconsideration, rescinded the earlier *Public Notice* and the initial improvement ranking factors of stations that had petitioned to migrate to the Expanded Band, and solicited comments on proposed technical procedures to calculate revised improvement ranking factors and generate a new allotment plan. In *Comments in Response to Reconsideration of Implementation of the AM Expanded Band and Allotment Plan*, 11 FCC Rcd 12444 (1996), the Commission denied all modifications proposed in comments filed in response to the initial Order, adopted procedures and closed the June 30, 1993 engineering database to further revision. Concurrently, the Mass Media Bureau released *Public Notice*, *Mass Media Bureau Announces Revised Expanded AM Broadcast Band Improvement Factors and Allotment Plan*, DA 96-408 (March 22, 1996), which listed the beneficial improvement factor of each station that had petitioned to migrate to the Expanded Band and announced an eighty-seven station allotment plan for new assignments in

the Expanded Band. In 1997 the AM expanded band proceeding was terminated, and in 2000 the allocation plan became final. Stations were required to apply for and subsequently begin implementation of the migration of their stations to the expanded band, and reportedly 65 three-year permits for expanded band stations were issued in 1997 and 1998. *Public Notice*, 17 FCC Rcd 1806 (2002). Although the deadline for termination of the original, standard-band channels, has now presumably expired, there has been no tremendous improvement of station technical performance or public revitalization of the AM band.

Moreover, the regulatory imbalance between AM and FM stations is growing rather than narrowing. Even with the introduction of HD Radio, the imbalance between AM and FM stations will grow, insofar as AM stations will be at an even greater disadvantage since they will only have one digital channel and FM stations will have multiple channels.

The bottom line is, without implementation of a bold initiative on the part of the Commission such as that proposed in the *NPRM*, the AM service will continue its current decline. AM broadcasters need access to translators to have any sort of parity with FM stations.

Richardson Broadcasting Corp. therefore supports the *NPRM* and the points made therein. Richardson Broadcasting Corp. is of the belief that implementation of the proposal will have a clear beneficial effect on AM broadcasters who are required to reduce service at night. Many AM broadcasters especially serve a local "niche" that many FM stations have largely abandoned, broadcasting things such as local evening

local high school sporting events, evening town meeting, and local emergency information. The ability to disseminate that programming and information in a meaningful fashion has been affected by the need to reduce power in the evening hours. The FCC's proposal, if marketed by local stations in the proper fashion, will allow for local needs and services to be provided in a more complete fashion.

Service Improvements Would Be Realized in the Public Interest. Richardson Broadcasting Corp. is in the somewhat unique situation of having already begun operation with the assistance of an FM translator (Station W281AB) through grant of a waiver by the FCC, pending the FCC's adoption of permanent rules. Although WJLD(AM) operates with 1 kW on an unlimited basis, Station WJLD(AM) is a Class C station that operates on 1400 kHz. There are five AM stations in the State of Alabama operating on 1400 kHz with 1 kw day and night:

WFPA(AM) 1400 kHz – Fort Payne, AL
WXALA(M) 1400 kHz – Demopolis, AL
WJLD(AM) 1400 kHz – Fairfield, AL
WANI(AM) 1400 kHz – Opelika, AL
WWTM(AM) 1400 kHz -- Decatur, AL

Station WJLD(AM) sits the middle of this cluster of stations, receiving on-channel as well as adjacent channel interference, thus making the addition of operation with an FM translator a significant improvement to its service.

Since commencement of rebroadcast of WJLD AM 1400, with an FM translator, the response from listeners has been tremendous. Ordinarily, the station's nighttime

signal diminishes to about 10 percent of its daytime signal; however, its daytime signal is not interference-free even in our 2.0 mV/m contour. This is because of adjacent, co-channel, and man- made interference. With the use of an FM translator, the station is now providing consistent service to the community night and day. AM radio stations such as WJLD have endured with marginal signals and are long overdue relief of real consequence, The FCC needs to embrace this proposal and expedite its adoption.

Preferences to AM Daytimer Stations for New Stations. Presuming, as is evident, that AM service on FM channels is in the public interest and is adopted by the FCC, the next regulatory hurdle that must be examined is the most fair, and expeditious way to implement the service, so that the public can be quickly and appropriately served. The overall goal should be to award use of FM translators in the future for use by the most deserving of broadcasters. Where there is no mutually-exclusivity between applicants, no issue, of course, would exist. However, in the case of the filing of mutually-exclusive applications during a relevant window, a decisive preference, akin to a preference awarded under Section 307(b) of the Communications Act (47 U.S.C. § 307(b)) should be awarded to the most deserving AM broadcasters, namely those with nighttime service issues. In the case of AM broadcasters, when mutually-exclusive, such a decisive preference should be awarded to daytime-only AM stations, as well as AM full time stations whose interference-free contour population is 10 percent or less of the station's daytime 2.0 mV/m contour, will have precedent over all other translator applications. Also, all other AM stations would take second precedence to the above

AM stations but before all other applicants. To the extent a large number of FM translator applications remain pending from the last filing window, it is proposed that this action be retroactive to all pending translator applications.

Service Issues. As an integral part of any *NPRM*, the FCC should reconsider the permissible area in which an appropriate FM translator could operate. At the present time, under the Commission's current proposal, the coverage contour of an FM translator rebroadcasting an AM radio broadcast station must be contained within the lesser of the 2 mV/m daytime contour of the AM station and a 25-mile (40 km) radius centered at the AM transmitter site. This area is overly restrictive.

The rule should allow for FM translator service to be provided to the greater of the 2 mV/m daytime contour of the AM station and a 25-mile (40 km) radius centered at the AM transmitter site.

Moreover, Richardson Broadcasting's principal is of the belief that the current method of predicting FM coverage contours - using the present 2 to 10 mile HAAT profile- licensing rule - is tenuously accurate. Richardson Broadcasting is proposing that the more accurate use of terrain shielding and computer-generated Longley-Rice terrain profiles be used to determine real coverage in all FM allocations issues, including this proceeding.

Rebroadcasts on Unaffiliated Out-of Market Stations Should be Allowed. Moreover, with respect to out-of-market rebroadcasts of AM stations on FM translators by non-affiliated FM translator licensees, *i.e.*, community groups, currently, FM translators licensees are allowed to rebroadcast FM stations, and not serve as merely a "fill-in"

translator, as long as they do not receive any support, before or after construction, either directly or indirectly, from the commercial primary FM radio broadcast station, other than technical assistance from the primary station to the extent of installing or repairing equipment or making adjustments to equipment to assure compliance with the terms of the translator station's construction permit and license. 47 C.F.R. § 74.1232(e).

This community service also should be allowed for the rebroadcast of AM stations. Therefore, the rules should clearly state that such non-fill-in rebroadcasts of AM stations are also allowed beyond the limitations to be adopted by the FCC for fill-in service, as long as similar financial restrictions continue to be imposed.

Fill-In Status. Under the current rules, non-fill-in FM translator stations are limited in power to those power levels specified in Section 74.1235(b) of the Commission's rules, but "fill-in" FM translator stations are permitted to operate with up to 250 watts under Section 74.1235(a) of the Rules.

The Commission's new rules should make clear that as long as the FM translator is being used to enhance the coverage of an AM station in the manner allowed under the Commission's rules, that it should be considered to be a "fill-in" translator, and therefore allowed to hypothetically increase power to a full 250 watts (as long as, or course, such power increase does not cause the contour to extend beyond whatever limits are adopted in this proceeding).

Protected Status. Currently, a full-service station applicant has no obligation to assist an FM translator station potentially impacted by implementation of its new station or

modification proposal. In the recent *Third Report and Order and Second Further Notice of Proposed Rulemaking*, FCC 07-204 (Dec. 11, 2007), the Commission stated that it believed that this policy is inconsistent with the public interest, and tentatively concluded that LPFM stations are entitled to enjoy the same reimbursement policies which the Commission has established for full-service stations which are involuntarily required to change channels. Under the Commission's proposal in that proceeding, an applicant for a new or modified full-service FM station will be required to assume certain technical, financial, and notice obligations if implementation of the proposal could impact an LPFM station. In such circumstances, the full-service station will be required to provide notice of its application filing to the LPFM station. As part of its application filing, the full-service station will be required to include the results of its search for an alternate LPFM channel. It should will be required to cooperate in good faith with the LPFM station in developing the best technical approach, including a possible LPFM site relocation, to ameliorate the interference and/or displacement impact of its proposal, and will be responsible for certain expenses relating to any LPFM station channel change and/or transmitter site change necessitated by the full-service station proposal. *Id*. at ¶ 76.

Similar protections should be afforded to FM translator stations. These stations, too, provide an important public service, and the Commission has long expressed the belief that the public has a legitimate expectation of continuity of service. To ensure that AM station service on FM stations remains uninterrupted once it commences operations, the filing of displacement FM translator station should be specifically allowed, and the

same reimbursement contemplated to LPFM stations should be provided to FM translators.

Conclusion

Even 16 years ago, the Commission determined that "the once preeminent AM service is now in critical need of attention." *Review of the Technical Assignment Criteria for the AM Broadcast Service*, FCC 90-136, ¶ 2 (1990). Although the rule changes adopted in the 1990's may have slowed the degradation of the service, the sensible, feasible, adjustments to the FCC's rules proposed by the National Association of Broadcasters and now proposed for adoption by the FCC generally can allow for great strides to be taken by existing AM stations to improve competitiveness in the local radio marketplace and a greater variety of program sources to the public, if adopted in a correct manner. Adoption of this proposal will allow otherwise unused or unusable spectrum to be used in a manner than will provide additional program sources (here, at night) and service to the public, all while having the additional beneficial effect of fostering an AM service that has been harmed and is in danger of partial extinction absent Commission action. Sixteen years ago, the Commission was of the opinion that "in view of the undisputed public importance of the AM service, we believe that **innovative and substantial** regulatory steps must be taken to ensure its health and survival." *Review of the Technical Assignment Criteria for the AM Broadcast Service*, 6 FCC Rcd 6273, ¶ 3 (1991) (emphasis added). That sentiment is even more true today. Today, AM stations face competition new competition from additional sources, such

as satellite radio, Internet radio broadcasts, and even iPods. FCC approval of the majority of the *NPRM*'s proposals would enable AM stations to more aggressively compete in today's media marketplace.

WHEREFORE, it is respectfully requested that these Comments be accepted.

Respectfully submitted,

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